

1 **WO**

2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 United States of America,

10 Plaintiff,

11 v.

12 Rosalio Garcia-Rivera,

13 Defendant.
14

NO. 20-01127MJ-001

**ORDER OF DETENTION PENDING
TRIAL**

15 In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), a detention hearing has
16 been held. Defendant was present and was represented by counsel. I conclude by a
17 preponderance of the evidence the defendant is a serious flight risk and order the
18 detention of the defendant pending trial in this case.

19 **FINDINGS OF FACT**

20 I find by a preponderance of the evidence that:

- 21 ☒ The defendant is not a citizen of the United States or lawfully admitted for permanent
22 residence.
23 ☒ The defendant, at the time of the charged offense, was in the United States illegally.
24 ☐ The defendant has no significant contacts in the United States or in the District of
25 Arizona.
26 ☐ The defendant has no resources in the United States from which he/she might make a
27 bond reasonably calculated to assure his/her future appearance.
28 ☒ The defendant has a prior criminal history.
☐ The defendant lives/works in Mexico.
☐ The defendant is an amnesty applicant but has no substantial ties in Arizona or in the
United States and has substantial family ties to Mexico.

- 1 ☐ There is a record of prior failure to appear in court as ordered.
- 2 ☐ The defendant attempted to evade law enforcement contact by fleeing from law
- 3 enforcement.
- 4 ☐ The defendant is facing a maximum of _____ years imprisonment.

5 The Court incorporates by reference the material findings of the Pretrial Services

6 Agency which were reviewed by the Court at the time of the hearing in this matter,

7 except as noted in the record.

8 **CONCLUSIONS OF LAW**

- 9 1. There is a serious risk that the defendant will flee.
- 10 2. No condition or combination of conditions will reasonably assure the appearance of
- 11 the defendant as required.

12 **DIRECTIONS REGARDING DETENTION**

13 The defendant is committed to the custody of the Attorney General or his/her

14 designated representative for confinement in a corrections facility separate, to the extent

15 practicable, from persons awaiting or serving sentences or being held in custody pending

16 appeal. The defendant shall be afforded a reasonable opportunity for private consultation

17 with defense counsel. On order of a court of the United States or on request of an

18 attorney for the Government, the person in charge of the corrections facility shall deliver

19 the defendant to the United States Marshal for the purpose of an appearance in

20 connection with a court proceeding.

21 **APPEALS AND THIRD PARTY RELEASE**

22 IT IS ORDERED that should an appeal of this detention order be filed with the

23 District Court, it is counsel's responsibility to deliver a copy of the motion for

24 review/reconsideration to Pretrial Services at least one day prior to the hearing set before

25 the District Court.

26 IT IS FURTHER ORDERED that if a release to a third party is to be considered, it

27 is counsel's responsibility to notify Pretrial Services sufficiently in advance of the hearing

28 before the District Court to allow Pretrial Services an opportunity to interview and

investigate the potential third party custodian.

DATE: 3/6/2020


Honorable James F. Metcalf
United States Magistrate Judge